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FISCAL IMPACT STATEMENT

LS 6958

BILL NUMBER: HB 1001

NOTE PREPARED: Mar 16, 2016

BILL AMENDED: Mar 10, 2016

SUBJECT: Road Funding.

FIRST AUTHOR: Rep. Soliday

FIRST SPONSOR: Sen. Kenley

BILL STATUS: Enrolled

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- (1) At the end of state FY 2016, transfers state reserves that exceed 11.5% of general revenue appropriations as follows: (a) 55% to the State Highway Fund. (B) 45% to the Local Road and Bridge Matching Grant Fund.
- (2) Provides that use tax collected on sales of gasoline is distributed differently than ordinary sales and use tax collections.
- (3) Allows a county that uses a transportation asset management plan approved by the Indiana Department of Transportation (INDOT) to impose the county motor vehicle license excise surtax and the county wheel tax at higher rates.
- (4) Authorizes an eligible municipality to impose a municipal motor vehicle license excise surtax and a municipal wheel tax.
- (5) Provides for the deposit of certain excise taxes and local taxes collected under the tax amnesty program, including funding for a third regional cities project, thirteenth pension checks in 2016, and next Generation Hoosier Educators Scholarships.
- (6) Requires a transfer of \$100,000,000 from the state General Fund to the State Highway Fund instead of to the Major Moves 2020 Trust Fund in state FY 2017 and provides that the money transferred must be used only for preserving and reconstructing existing roads and bridges for which INDOT is responsible.
- (7) Establishes the Local Road and Bridge Matching Grant Fund.
- (8) Provides the following in the case of infraction judgments imposed in Clark County for toll violations after January 1, 2017:
 - (a) The court shall impose a judgment of not less than \$35 for such an infraction judgment.
 - (b) The funds collected for such an infraction judgment shall be transferred to a dedicated toll revenue fund created as part of the project and may be used only to pay the cost of operating, maintaining, and repairing the tolling system.

- (9) Establishes the Funding Indiana's Roads for a Stronger, Safer Tomorrow Task Force.
- (10) Requires the Task Force to develop a long-term plan for state highway and major bridge needs, including sustainable funding mechanisms for the various components of the plan.
- (11) Makes appropriations for various highway and bridge maintenance purposes.
- (12) Appropriates \$500,000 for the Local Technical Assistance Program (LTAP) to assist with the development and operation of local government transportation asset management plans and pavement management plans.

Effective Date: Upon passage; July 1, 2016.

Explanation of State Expenditures: *Summary - State Highway Fund:* This bill will increase funding to the State Highway Fund during FY 2017 from transfers of state excess reserves totaling \$226.1 M and a \$100 M transfer from the Major Moves 2020 Trust Fund. The State Highway Fund will experience an annual revenue loss from changes made to gasoline use taxes and sales tax revenue deposited in the Motor Vehicle Highway Account (MVHA). Additionally, the bill appropriates \$500,000 to the Local Technical Assistance Program (LTAP) from the Motor Vehicle Highway Account (MVHA), which will reduce funding available to the State Highway Fund by approximately \$265,000 during FY 2017.

The net impact to the State Highway Fund by year is included in the following table.

| Net State Highway Fund Impact | | | |
|--------------------------------------|------------------|------------------|------------------|
| Revenue Source | FY 2017 | FY 2018 | FY 2019 |
| State Excess Reserve Transfer | \$226.1 M | -- | -- |
| Major Moves 2020 Transfer | \$100.0 M | -- | -- |
| Gasoline Use Tax Diversion | \$32.3 M | \$34.1 M | \$34.5 M |
| Sales Tax Replacement | (\$38.7 M) | (\$40.5 M) | (\$42.1 M) |
| LTAP | (\$0.265 M) | -- | -- |
| Total | \$319.4 M | (\$6.4 M) | (\$7.6 M) |

Local Road and Bridge Matching Grant Fund: The bill also establishes the Local Road and Bridge Matching Grant Fund (LMGF) and provides funding with a transfer of \$185.0 M of state General Fund excess reserves in FY 2017 and a diversion of 14.286% of Gasoline Use Tax revenue in FY 2018 and 21.42% in FY 2019 and thereafter. The following table shows total annual funding to the LMGF.

| Impact on Local Road and Bridge Matching Grant Fund | | | |
|--|------------------|-----------------|------------------|
| Revenue Source | FY 2017 | FY 2018 | FY 2019 |
| Gasoline Use Tax Diversion | -- | \$69.2 M | \$104.9 M |
| State Excess Reserve Transfer | \$185.0 M | -- | -- |
| Total | \$185.0 M | \$69.2 M | \$104.9 M |

General Fund Impact: The bill: (1) decreases General Fund revenue by diverting a portion of the Gasoline Use Tax, (2) replaces General Fund revenue loss by shifting 0.99% of the sales tax revenue currently distributed to the MVHA back to the General Fund, (3) decreases General Fund revenue by \$87.5 M in FY

2016 from changes made to revenue distributions under the tax amnesty program, and (4) transfers \$411.1 M in state General Fund excess reserves during FY 2017 for the purposes of road funding.

The total net impact on the General Fund from the bill is included in the following table.

| Net General Fund Impact | | | | |
|----------------------------------|-------------------|--------------------|-------------------|-------------------|
| Bill Action | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
| Gas Use Tax Diversion | -- | (\$60.3 M) | (\$132.8 M) | (\$169.1 M) |
| Sales Tax Replacement | -- | \$72.2 M | \$75.6 M | \$78.7 M |
| Tax Amnesty Distribution Changes | (\$87.5 M) | -- | -- | -- |
| State Excess Reserve Transfer | -- | (\$411.1 M) | -- | -- |
| Total | (\$87.5 M) | (\$399.2 M) | (\$57.2 M) | (\$90.4 M) |

Impact on Other State Funds: The bill diverts Gasoline Use Tax revenue from the Commuter Rail and Industrial Rail Service Funds, but increases the distribution of other Sales and Use Tax revenue to these funds. As a result, net revenue to the Commuter Rail and Industrial Rail Service Funds could annually increase by a small amount.

The bill also changes distributions received from the Tax Amnesty program that will affect distributions to the Indiana Regional Cities initiative, the Pension Stabilization Fund, and the Next Generation Hoosier Educator Scholarship during FY 2016.

The bill's total impact on these funds is summarized in the following table.

| Net Changes to Other State Funds from Bill's Provisions | | | | |
|--|----------------|----------------|----------------|----------------|
| Fund | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
| Commuter Rail Service Fund | -- | \$0.02 M | \$0.02 M | \$0.03 M |
| Industrial Rail Service Fund | -- | \$0.01 M | \$0.01 M | \$0.02 M |
| Indiana Regional Cities Development Fund | \$42.0 M | -- | -- | -- |
| INPRS for PERF | \$8.7 M | -- | -- | -- |
| INPRS for Pre-1996 TRF | \$20.7 M | -- | -- | -- |
| INPRS for Excise Police & Gaming Agent Plan | \$0.07 M | -- | -- | -- |
| TOS for State Police Pre-1987 Benefit System | \$0.2 M | -- | -- | -- |
| TOS for State Police 1987 Benefit System | \$0.2 M | -- | -- | -- |
| Next Generation Hoosier Educator Scholarship | \$2.2 M | -- | -- | -- |

Additional Impacts- This bill requires the Office of Management and Budget (OMB) to calculate the state excess reserves at the closeout of FY 2016. These requirements are routine functions of these agency. The increases in workload are expected to be accomplished within current resource and funding levels.

The bill will also increase the workload of LTAP to study the development and operation of local transportation asset and pavement management plans as well as assist local units of government in

developing and operating these plans. Increases in workload are expected to be funded from the \$500,000 appropriation included in the bill.

Computer System Costs: The Department of State Revenue (DOR) could incur additional administrative costs to change the distribution of revenue from the state Sales and Use Tax and the Gasoline Use Tax. The DOR may be required to amend computer software and make other adjustments to implement the bill's changes. The DOR may also need to revise computer software for the new municipal surtax and wheel tax, which could be substantial as the DOR could be required to program and maintain up to 560 additional surtax/wheel tax rate schedules.

Funding Indiana's Roads for a Stronger, Safer Tomorrow Task Force: The bill establishes a 16-member task force charged with developing a long-term plan for funding maintenance and development of the state's infrastructure. The task force is created upon passage and expires at the end of FY 2017, with the long-term plan required to be presented to the Budget Committee before January 1, 2017.

The task force consists of 8 members of the General Assembly, 2 state employees, and 6 individuals appointed by the Governor. The bill is silent on task force member travel reimbursement and per diem.

The bill requires the Legislative Services Agency to provide staff support to the task force. This requirement could result in a significant additional workload on LSA during the 2016 interim. This additional workload could potentially be accomplished using two to four current full-time personnel. If LSA is unable to allocate that level of staff to the Task Force due to other interim responsibilities or the Task Force requires additional staffing, LSA could need to hire one or two temporary personnel. These temporary employees could be hired within LSA's current resources.

Explanation of State Revenues: *Reserve Transfer:* The bill provides that state reserves that exceed 11.5% of the General Fund appropriation for FY 2017 be transferred from the General Fund reserves to the funds designated by the bill. OMB is to consider the balance in the state tuition reserve account when calculating the state excess reserves in 2016. It is estimated that about \$411.1 M would be transferred from the state General Fund reserves in the first quarter of FY 2017. Of this amount, the bill requires that 55% (\$226.1 M) be transferred to the State Highway Fund and 45% (\$185 M) be transferred to the Local Road & Bridge Matching Grant Fund.

The bill will not impact the calculation of excess reserves at the end of FY 2017 and thereafter. Under current statute, the amount of excess reserves is calculated in odd-numbered years and defined as state reserves that exceed 12.5% of the General Fund appropriations for the fiscal year. It requires that the balances in the tuition reserve account may not be considered in calculating the excess reserves. Current law also sets the distribution of available excess reserves to the Pension Stabilization Fund and automatic taxpayer refunds. It is estimated that under the calculations set in current law, there would be no excess reserve available for distribution in FY 2018, when the next calculation is scheduled to be made.

Major Moves Transfer: Under current law, the State Budget Agency is authorized to transfer \$100 M from the General Fund to the Major Moves Trust Fund during FY 2017. The funding transferred to the Major Moves Trust Fund may, pending approval of the State Budget Agency, be used for purposes of the Major Moves Construction Fund.

Under the bill, if the State Budget Agency makes this transfer, \$100 M would be available for transfer to the State Highway Fund in FY 2017 (depending on the decision of the State Budget Agency). The bill could

increase funding to the State Highway Fund by \$100 M in FY 2017 and, to the extent it does, decrease revenue to the Major Moves Construction Fund by the same amount.

Tax Amnesty Collections Distribution: The bill will have the following impact on the distribution of tax amnesty collections during FY 2016.

| Type of Fund/Unit | Current Law | Proposed Under The Bill | Difference |
|---|------------------|-------------------------|-------------------|
| State General Fund | \$87.5 M | \$0.0 M | (\$87.5 M) |
| Indiana Regional Cities Development Fund | \$84 M | \$126 M | \$42 M |
| INDOT (Hoosier State Rail Line Expenses) | \$6 M | \$6 M | 0 |
| INPRS for PERF | 0 | \$8.7 M | \$8.7 M |
| INPRS for Pre-1996 TRF | 0 | \$20.7 M | \$20.7 M |
| INPRS for Excise Police & Gaming Agent Plan | 0 | \$0.07 M | \$0.07 M |
| TOS for State Police Pre-1987 Benefit System | 0 | \$0.2 M | \$0.2 M |
| TOS for State Police 1987 Benefit System | 0 | \$0.2 M | \$0.2 M |
| Next Generation Hoosier Educators Scholarship | 0 | \$2.2 M (up to \$10 M) | \$2.2 M |
| Total State Funds | \$177.5 M | \$164.1 M | (\$13.4 M) |
| | | | |
| Local Distributions | 0 | \$13.4 M | \$13.4 M |
| | | | |
| Total | \$177.5 M | \$177.5 M | 0 |

To the extent that Local Option Income Tax collections within the local distributions shown above have already been distributed to the local units (see *Explanation of Local Revenues*), the distribution to the Next Generation Hoosier Educators Scholarship could be higher than \$2.2 M and up to \$10 M.

HEA 1001-2015 required the DOR to establish a tax amnesty program. It required the first \$84 M of amnesty revenue to be deposited into the Indiana Regional Cities Development Fund. The next \$6.0 M was required to be transferred to INDOT for the operation of the Hoosier State Rail Line. Any remaining revenue attributable to the amnesty program was to be deposited in the state General Fund.

The bill changes the distribution of the estimated \$177.5 M collected under the program. The DOR has received about \$163.5 M of that amount, with the remaining being paid under payment plans.

The bill provides for the following distributions from the tax amnesty program:

- (1) Certain local taxes to be distributed to local units.
- (2) Next \$84 M to be distributed to the Indiana Regional Cities Development Fund.
- (3) Next \$6 M to be distributed to the INDOT for the operation of the Hoosier State Rail Line.
- (4) Next \$42 M to be distributed to the Indiana Regional Cities Development Fund.
- (5) Next \$8.7 M to be distributed to the Public Employees Retirement Fund.
- (6) Next \$20.7 M to be distributed to the Pre-1996 account of the Teacher's Retirement Fund.
- (7) Next \$70,000 to the Excise Police, Gaming Agent, and Conservation Officers' Retirement Plan.
- (8) Next \$200,000 to be distributed to the State Police Pre-1987 benefit system.

- (9) Next \$200,000 to be distributed to the State Police 1987 benefit system.
- (10) Next \$10 M to be distributed to the Next Generation Hoosier Educators Scholarship Fund.
- (11) Any remaining money to be deposited to the State General Fund.

The bill appropriates the additional \$42 M to the Indiana Regional Cities Development Fund under the bill for purpose of funding a third grant under the regional cities initiatives.

Sales and Use Tax Distribution: The bill shifts a portion of Gasoline Use Tax revenue from the state General Fund, Commuter Rail Service Fund, and Industrial Rail Service Fund to the Motor Vehicle Highway Account, effective FY 2017. Starting in FY 2018, a portion of the Gasoline Use Tax will also be distributed to the Local Road and Bridge Matching Grant Fund. Of the revenue distributed to the MVHA, 53% is deposited in the State Highway Fund, and 47% is allocated to local units.

The bill also changes the distribution of all other Sales and Use Tax revenue by shifting the amount currently distributed to the MVHA to the General Fund, Commuter Rail Service Fund, and Industrial Rail Service Fund.

The Gasoline Use Tax is currently distributed in the same manner as all other Sales and Use Tax revenue. The majority (98.848%) is deposited in the General Fund, 1% is deposited in the MVHA, 0.029% in the Industrial Rail Service Fund, and 0.123% in the Commuter Rail Service Fund.

In FY 2015, the state collected \$489.1 M from the Gasoline Use Tax. This total, in addition to the December 2015 state revenue forecast, is the basis of the estimates for FY 2017 through FY 2020. The estimates are also based on two forecasts of expenditures on gasoline. The U.S. Energy Information Administration (EIA) forecasts consumption and prices for gasoline on a national and regional level. In addition to the EIA data, the forecasted change in consumer spending on motor fuels published by IHS Global Insight is used to estimate gasoline sales in Indiana. The following table shows estimated Gasoline Use Tax and total Sales and Use Tax revenue for FY 2017 through FY 2019.

| Revenue Source | FY 2017 | FY 2018 | FY 2019 |
|-----------------------|----------------|----------------|----------------|
| Gasoline Use Tax | \$458.8 M | \$484.3 M | \$489.4 M |
| Total Sales & Use Tax | \$7,754.6 M | \$8,122.8 M | \$8,438.7 M |

Toll Road Revenue: The bill establishes a minimum \$35 penalty for toll violations that occur across the new I-65 bridge into Kentucky starting January 1, 2017. Revenue collected from these penalties would be deposited in a dedicated fund for the purposes of operating, maintaining, and repairing the toll roads that are part of a public-private agreement and maintained by the Indiana Finance Authority.

Penalty Provision: The bill creates four Class B misdemeanor penalties: failure to pay a municipal surtax or wheel tax during registration and failure of a BMV employee to collect a municipal surtax or wheel tax. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit or superior court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town

court, 55% of the fee would be deposited in the state General Fund. In addition, the automated record keeping fee (\$19) is deposited into the state user fee fund, and the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: The creation of the Local Road and Bridge Matching Grant Fund could result in additional local expenditures on infrastructure. In order to access these state funds, local units will be required to commit to a local match from (1) an increase (after the end of FY 2016) in a local unit's motor vehicle excise surtax or wheel tax, (2) money received from a special distribution of local income taxes, or (3) the local unit's rainy day fund.

Additionally, the bill could increase local incarceration costs from the creation of the Class B misdemeanors. A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Summary:* This bill could increase local road funding by (1) allowing municipalities to institute excise surtax and wheel tax rates and (2) allowing an increase in the current county excise surtax and wheel tax. The bill also decreases local MVHA revenue from (1) changes made to distributions of sales tax and gasoline use tax revenue and (2) an appropriation to LTAP during FY 2017 (which reduces local MVHA revenue by \$235,000).

The following table shows estimated total local revenue that could be received between FY 2017 and FY 2019.

| Fiscal Year | Counties (via MVHA) | Cities & Towns (via MVHA) | County Wheel and Surtax | Municipal Wheel and Surtax | Annual Local Revenue Total |
|--------------------|----------------------------|--------------------------------------|--------------------------------|-----------------------------------|-----------------------------------|
| 2017 | (\$3.7 M) | (\$1.7 M) | \$91.5 M | \$45.0 M | \$131.1 M |
| 2018 | (\$3.8 M) | (\$1.8 M) | \$183.0 M | \$90.0 M | \$267.4 M |
| 2019 | (\$4.6 M) | (\$2.2 M) | \$183.0 M | \$90.0 M | \$266.2 M |

Local units of government could also receive approximately \$13.4 M in revenue from changes to the tax amnesty program distributions during FY 2016 and would have access to approximately \$359 M in state funding dedicated to the Local Road and Bridge Matching Grant Fund between FY 2017 and FY 2019.

Additional Information - Local MVHA revenue is distributed to local units as follows: 31.9% to cities and towns, 3.4% equally to all counties, 20.4% to counties based on vehicle registrations as a percent of all registrations in the state, and 44.3% to counties based on county mileage.

By specifying that a source of local matching funds required to receive a grant from the Local Road and Bridge Matching Grant Fund can come from increased excise surtax and wheel taxes enacted during FY 2017 and beyond, local units of government could have incentive to utilize the new maximum rates allowed in the bill to access these state funds.

Tax Amnesty Distributions: Under the bill, local units will receive a distribution of revenues collected under the amnesty program. Average LOIT rates as a share of total state and local income tax rates was used to

estimate the individual income tax collections allocated to the local units. According to the DOR, based on the processed returns from prior years, a significant portion of the LOIT collections shown below have already been distributed to the local units. The estimated local allocations will be lower to the extent that the state already certified and distributed LOIT collections reflected below to local units.

The estimated amount of revenue by tax type distributed to local units is shown in the table below.

| Revenue Type | Distribution to Local Units |
|--------------------------------|-----------------------------|
| Local Option Income Taxes | \$13,041,750 |
| Inheritance Tax | \$129,844 |
| Innkeeper's Tax | \$1,566 |
| Food & Beverage Tax | \$175,528 |
| Aircraft License Excise Tax | \$806 |
| Auto Rental Excise Tax | \$18 |
| Supplemental Auto Excise Tax | \$2,674 |
| Total Local Funds/Units | \$13,352,186 |

County Excise Surtax / Wheel Tax: Under this provision, the statewide annual revenue capacity from county excise surtax and wheel tax would double, increasing by an estimated \$183 M if all counties use a transportation asset management plan.

The maximum surtax rate would increase from 10% or \$25 per excise vehicle to 20% or \$50. The maximum wheel tax rate would increase from \$40 per non-excise vehicle to \$80.

Surtax and Wheel Tax revenue is distributed to each city, town, and county based on the formula for the Local Road and Street Account. The revenue is used to construct, reconstruct, repair, or maintain streets and roads. In Marion County, the city-county council may appropriate surtax revenue to the Indianapolis Department of Transportation.

Municipal Surtax and Wheel Tax: There are 76 municipalities with a population of at least 10,000. If each of these municipalities adopt the municipal surtax and wheel tax at maximum tax rates, municipal revenues could increase by as much as \$90 M beginning in CY 2017. Municipal surtax and wheel tax revenue may be used only for road and street construction and maintenance or matching funds to obtain a grant from the Local Road and Bridge Matching Grant Fund. Wheel tax revenue may also be contributed to a multiple county infrastructure authority.

This provision would permit municipalities to impose their own surtax and wheel tax. An adopting municipality must adopt both taxes simultaneously. The surtax would be charged as a flat rate of between \$7.50 and \$25.00 on each vehicle registered in the municipality that is subject to the excise tax. The wheel tax would be assessed at a flat rate of between \$5.00 and \$40.00 on each vehicle registered in the municipality that is not subject to the excise tax.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that

prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Persons found guilty of a felony or misdemeanor are also required to pay the document storage fee (\$5), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

State Agencies Affected: INDOT, OMB (including the State Budget Agency, Department of Revenue, and the Department of Local Government and Finance), BMV.

Local Agencies Affected: All.

Information Sources: Energy Information Administration Annual Energy Outlook 2015; INDOT; Cambridge Systematics report to the Interim Committee on Roads and Transportation; Tax and Revenue Handbook, Auditor of State Data; General Fund Revenue Forecast: Fiscal Years 2015-2017; Revenue Forecast Technical Committee, April 2015; State Budget Agency Auditor's Data; DOR tax return data; IHS U.S. Economic Outlook, October 2015; State Revenue Forecast, December 17, 2015. OFMA Income Tax Database. Long, James E. "The Impact of Marginal Tax Rates on Taxable Income: Evidence from State Income Tax Differentials." Southern Economic Journal 65(4): 855. Bruce, Donald, John Deskins, and William Fox. (2005) On the Extent, Growth, and Efficiency Consequences of State Business Tax Planning." Donald Bruce, John Deskins, and William Fox. (2006). "On The Relative Distortions of State Sales, Corporate Income Taxes." Bruce, Fox, 2006 Tax Base Elasticities: A Multi-State Analysis of Long-Run and Short-Run Dynamics.

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